

BRIEF COMMENTS SUMMARY – Port Everglades, 2020 EA/rule/SMMP public comments

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Comments summaries/topics:

-Request to deny the action/expansion without specifics: 8

-Request to extend comments: 9

- 1) Damage to coral/reefs: 12
- 2) Supporting comments: 1
- 3) Beneficial use of sediments (instead of ocean): 3
- 4) Reduce plumes of suspended sediment due to traffic/placement (Broward cty)
- 5) Water Quality/degradation: 1
- 6) Not adequate related to impacts to ESA/EFH species
- 7) Assessment uses outdated information
- 8) Specific to expansion (not ODMDs): 5
- 9) Legal from GLDD focused solely on SMMP items (no issue with expansion)
 - a. No factual basis for changes to SMMP
 - b. Inadequate notice to changes of SMMP
 - c. EPA has no authority to do anything with transport under MPRSA
 - d. Failed to comply with nepa re: SMMP changes (in EA?) confusing
 - e. Should not separate odmds expansion from Corps' EIS for project

COMMENTS PERTAINING TO MORE TIME TO COMMENT

All comments containing sections related to delaying the comment period that have more than “please delay” are noted below with copy of the specific text:

Comment 19 (docket): Private individual

Furthermore, this comment period is insulting. As the nation is preoccupied with the very real threat of Covid-19, the EPA is acting in bad faith by silently allowing a comment period to end in the midst of a national emergency.

For the sake of transparency in troubling times, and for the sake of our Ocean's health, I urge the EPA to reject this proposal.

Email Comment 1: Private individual

In addition, I join with 79 environmental groups in asking for an extension of the public comment period until 60 days after the public health national emergency is lifted.

Email Comment 5: Great Lakes Dredge and Dock, Head Legal

APA Rulemaking Procedural Concerns & COVID-19 Pandemic The APA § 553 outlines the rulemaking requirements an agency must follow when implementing informal rulemaking. Informal rulemaking has three main requirements. First, notice of the proposed rule must be published in the Federal Register. Notice should include “a statement of the time, place, and nature of the public rulemaking proceedings, reference to the legal authority under which the rule is proposed, and either the terms of the substance of the proposed rule or a description of the subjects and issues involved.” After publication, there must be an opportunity for public comment. Finally, the agency must issue a general statement of basis and purpose with the finalized rule, explaining the grounds and responding to comments. The final rule must be a logical outgrowth of the proposed rule.

Given that the Army Corps of Engineers has already conceded that the environmental data underlying this proposed rule is faulty, and has agreed to conduct new studies, initiating an informal rulemaking process at this point conflicts with the APA requirements because that new data will not be available to the public within the proposed notice and comment period. The public cannot adequately comment without access to sound scientific data in the notice regarding the project and its implications on the environment. Commenting in this situation would disrupt the logical outgrowth requirement of the proposed rule such that any comments, as well as the final rule, would be grounded in concededly inadequate data.

Alternatively, failing to extend the comment period amidst the COVID-19 pandemic violates the APA requirements because the public cannot adequately and meaningfully participate. Countless people are being affected by the pandemic and cannot participate due to illness and lack of resources. The shelter in place that has been issued within states around the country have forced people to stay home. Thus, they cannot go to libraries, work, school and other places where they could do research and access the internet to make comments. To date, only nine comments have been received.

Several organizations have called for the commenting period to remain open until 60 days after the emergency is lifted. Many congressional chairs have supported this call by stating that “The right of the American people to meet with federal agencies and comment on proposed actions is invariably affected by the ongoing pandemic.” The APA requires that the public has an effective chance to comment and the pandemic will disparately impact their chance to do so. In the interest of environmental justice, equity and democracy it behooves the EPA to extend the comment period.

Email Comment 7: Friends of Biscayne Bay

By posting a public comment notice amid a public health crisis in which members of the public are not able to channel their focus to EPA proceedings, the EPA is taking advantage of the shift in focus and

denying the public the opportunity to submit written comments that could be considered in the decision making process. We want to extend a similar reminder to EPA employees for all proposals being made during this time and consider this when determining the time limits for public comment periods.

Due to the current public health crisis that is preoccupying the minds of most members of the public, we find this an inadequate public comment period since it does not provide enough time for members of the public to become aware of the dump project proposal and express their concerns about the potential risks that may be associated with this expansion. Henceforth, we respectfully encourage the Water Division of the EPA to extend to the period for public comment on the EPA's proposal for the dump project, as well as other proposed projects, to at least 60 days following the termination of the current public health crisis that our nation is currently facing or reopen the period for public comment at the end of the current national emergency.

We respectfully ask that you allow the people of Florida adequate time with which to express their concerns about the proposed expansion to the ocean dredged material disposal site by expanding the period for public comment. In the event that you are unable to extend the deadline then we request that you withdraw this proposal for the time being.